

CLEARED HIS CLIENT

Episode in the Legal Career of Former Senator Stewart.

"Every true lawyer will be loyal to his client, above all things," says former Senator Stewart of Nevada to Smith D. Fry in the Los Angeles Times. "I once heard that great lawyer, Senator Davis of Minnesota, say: 'When a man places his life in my hands, there is some danger that I may go to the penitentiary; but there is no danger that he will hang.'"

Senator Davis meant to convey the idea that he would resort to every conceivable means to save the life of any client who placed that life in his keeping. That was the principle which compassed me when I was in criminal practice. Because I went to extremes in saving a man from the gallows, I quit criminal practice. I felt that I had done my duty as a lawyer. But I also felt that I had not done my duty as a citizen. I felt that criminal practice must be handled by others. Of course, every young lawyer understands that he must assume or not on the assumption that his client is innocent. He must put himself in the place of the client and work for him day and night.

"This is wise and right. Many an innocent man has been convicted upon circumstantial evidence, and punished for the crime of another. The law books show that many innocent men have been hanged. There is no instance on record in Vermont, where two brothers, both under arrest for murder, were kept apart and so harassed by lawyers and detectives that both confessed to the murder, each brother thinking to save the other, when no murder had been committed at all. The murdered man for whom they were both about to be hanged appeared in court three days before the execution. He had disappeared, wanting to be forgotten forever by his family. He was far out West when he happened to read the story of the murder and the confession, and he returned to the place where two innocent men from death by hanging, when no crime had been committed. That is a celebrated case, and the books show hundreds of other cases where the innocent have suffered on circumstantial evidence. It is always safe and wise to assume that a client is innocent."

"My last criminal case was a singular one. I was practicing law in Seattle and had achieved quite a reputation as a criminal lawyer by reason of several almost phenomenal successes, as luck would have it. The rougher element seemed to have confidence in me and to feel safe in placing their interests in my charge. This it happened that when a man named Ellis was arrested for killing a man named O'Brien, on a mining claim, a friend of Ellis came to me and paid me a retainer to defend Ellis. I accepted the retainer without making any inquiries as to details or particulars. I was busy with other matters."

"Just before the case came to trial I looked into it and found that the case against Ellis was a strong one. In fact, I did not see how Ellis was to have a ghost of a show for his life. I could find no plea on which to defend him. The community was prejudiced against him, and some of my best friends came to me and begged me not to defend him. But that made no difference to me. I had accepted the retainer, and I was Ellis's lawyer. It was my duty to save him, if possible. Consequently I told my friends that I was Ellis's lawyer and that I intended to clear him. For the life of me, I didn't know how, though."

"As trial day drew near, Ellis grew more and more nervous. He sent for me again and again to come and see him; but I persistently refused to do so. I felt that he was guilty. I believed that he would lie to me and confuse me. I stayed away from him and sent word that I would be on hand to defend him. No other lawyer would take his case. No other lawyer would dare to defend him in the face of the public prejudice. But I made a bluff of telling all over town that I was going to clear Ellis. Sometime I had been making desperate plans for my client."

"Only one year previous to the trial of Ellis a popular young Irishman named Barney had been convicted of murder on circumstantial evidence. Subsequently the real murderer was found and lynched. The case of poor, unfortunate Barney was fresh in the minds of all, and the man who had been his attorney and had earnestly pleaded for his life was now the presiding judge. Moreover, the principal witness against my man Ellis had been the principal witness against poor Barney."

"I guess you see through my plans already, don't you? It was my intention to prejudice the judge and the jury against that principal witness. If I could do that I could save Ellis. Otherwise he must hang."

"There was another witness who was afflicted with an impediment in his speech. When excited he would stammer and go through such contortions that nobody could understand anything that he said, and his gestures were the writings of an insane man. I had no witness for the defense, and had to clear my man with the witnesses for the prosecution."

"There had been a row on the mountain side, and the evidence showed that Ellis had murdered a man named O'Brien without provocation, except that O'Brien had taken the man to the mine of which Ellis has taken possession. O'Brien had gone into the mountain to assert his claim, and Ellis had killed him in the presence of two witnesses."

"Well, when the time came for trial Ellis sent word to me that he wanted to talk to me in the courtroom, but I

sent back word for him to keep his mouth shut and see me immediately after the trial was over. The poor devil sat in the dock and eyed me wistfully. I could see that he had confidence in me as a criminal lawyer who had never lost a case. But his life was at stake, and he was guessing hard. I allowed the prosecution to make out its case with its witnesses, and offered no objections of any kind. I told them that I was busy, and wanted to get through with the trial as soon as possible; and as soon as my client was acquitted must take up another case involving a great deal of property. It was a bluff, of course, but a bluff sometimes beats a full hand."

"When my turn came I took the principal witness for the prosecution, and I went after him in this fashion: 'You are the man that swore away the life of poor Barney, last year. His blood cries aloud for vengeance. We all know, everybody here knows, judge and jury and all the people know, that you swore away the life of that poor boy, when he was innocent. You seem to make it your business to testify in such cases. You evidently like to place yourself in a position where you can swear away human lives. Everybody knows that poor Barney was here in Nevada, and his aged mother weeping in Ireland, when you swore against him, and he was hanged altogether on your testimony. I don't know what you have against Ellis here, but of course you have some grudge.'

"Here the prosecuting attorney properly interfered and demanded that the witness be protected from insult; but the judge ruled that the man who swore away the life of poor Barney deserved no protection. That decision had an immediate effect upon the jury, and I could see it. I was not defending Ellis directly; but I was successfully prejudicing the minds of the jury against this witness. I kept on abusing him, and finally compelled him to admit to judge and jury that he had been mistaken in the Barney case the preceding year. Then I ranted and shouted."

"How dare you come into this court to swear away another human life? How dare you appear before a jury of intelligent men, all of whom know of the Barney case? You admit that you were mistaken in the Barney case, and your testimony hangs that unhappy lad. You are also mistaken in this case, unless you are perjuring yourself. But you can't hang Ellis with your prejudiced testimony. I thank God that the people of Nevada did not mob you last year, and I hope that they will not lynch you now; but you had better get out of this community as soon as you can, for I will not vouch for your worthier life. Get off the witness stand and get out of my sight."

"He disappeared. He was in a hurry to get out of the room. He was almost scared to death; and the jury could see that, too. While he was getting out of the room I called for the other witness, and he came to the stand in a nervous, trembling manner, which indicated that I already had him scared almost to death. He was very much excited, and evidently expected me to go after him as I had gone after the other witness. He could scarcely stammer his name, and this is what I did to him:

"You saw O'Brien, the dead man, raise a shovel and try to brain Ellis here. You saw Ellis run away from him. You saw O'Brien run after Ellis clear to the edge of the pit. Your own eyes witnessed the fact that Ellis did not draw his gun until he was about to be brained and knocked into the pit. Now, tell the jury the truth, without any hesitation or quibbling. Out with it!"

"The poor fellow began to stammer and stammer and shake his head. He raised his arms and waved them about his head. He stammered, and finally put his hands to his eyes. He was in a state of nervous collapse, and then I shouted:

"Tears will not avail you. Let your conscience work. You know the truth, and you know that this deed was done in that I defend him. Tell the truth or get off the stand."

"He got off of the stand. The jury did not know that he was a stammerer. They saw only that the witness was stricken dumb before a determined attorney; and they saw from his tears that he was regretting his direct testimony. My case was won. It took less than five minutes for the jury to render a verdict of not guilty."

"As he walked to the jail, he had been rendered Ellis came to me and asked if his life was saved, and I replied: 'Your life is safe for just about ten minutes. These people are now going to the saloon, and as soon as their whiskey takes effect they will come here and run you up on a rope. While they are drinking, you must scout up the mountain side and disappear. Now get out, as fast as you can, and don't come back.'"

"No man ever shinned up a mountain side with more expedition than Ellis did that morning. He disappeared in the brush, and nobody ever saw him again in that direction. I got onto my horse and also disappeared, as I did not know what the mob might be tempted to do when they failed to find Ellis. Of course, after they cooled down, some of them blamed me for letting my client, although they were all satisfied that he was guilty. Even the jurymen told me afterward that they did not see how they ever acquitted him."

"That was my last case in criminal practice. I declared that I would never again take the case of any man charged with murder. I felt that I had done my duty as a lawyer and had saved the life of a client who trusted that life to me; but I was deeply impressed with the belief that I could not do it again, under any circumstances. So I quit criminal practice and went into politics. But I had not seen the last of Ellis. I had dismissed him from my mind entirely, but ten or twelve years afterward I was in Salt Lake City participating in a public meeting. Late at night I was walking to my hotel, when a man rushed out of a little alley, handed me a purse of money and said: 'Take it. It is all I have now. You saved my life. I'm Ellis.'"

"With that, he disappeared, and I have never seen or heard of him since. All of the circumstances were against him; and yet, maybe he was innocent. A man who will go out of his way to pay a debt as Ellis did must have some good qualities in him. In the purse I found the neat sum of \$750, which may have represented his savings for a long time. I presume that he had been watching my movements and followed me on that occasion in order to pay for my services and let me know that he realized something of their value to him. Whether he was innocent or not, I did my plain duty in defending him. No other course would have saved him from hanging, and it was well for him that he had saved himself as quickly as he did. Those were strenuous days in the mining regions. If Ellis is alive he will not blame me for telling the story. If he was innocent he will be glad to have it told."

Neglected Colds Threaten Life.

"Don't trifle with a cold," is good advice for prudent men and women. It may be vital in the case of a child. Proper food, good ventilation, and dry, warm clothing are the proper safeguards against colds. If they are maintained through the changeable weather of autumn, winter and spring, the chances of a surprise from ordinary cold will be slight. But the ordinary light cold will become severe if neglected, and a well established rule cold is to the germs of diphtheria what honey is to the bee. The greatest menace to child life at this season of the year is the neglected cold. Whether it is a child or adult, the cold, slight or severe, the very best treatment that can be adopted is to give Chamberlain's Cough Remedy. It is safe and sure. The great popularity and immense sale of this preparation has been attained by its remarkable cures of this ailment. A cold never results in pneumonia when it is given. For sale by all druggists.

As Usual, Our Opening Spring Sales Lead in Values!

Tomorrow marks the opening of some of the most important spring merchandising events at "Utah's Most Popular Store." They are special sales of such magnitude and attractiveness that we cannot begin to tell of all of them here; though any one of the sales announced below is unusual enough in itself to bring a throng. If unusual values count for anything, Monday will be the greatest sale day in our history.

MONDAY!
\$1.25 and \$1.50 White Embroidery Skirting Flannels at 88c a Yard.

35 styles of new white silk embroidered Skirting Flannels, hemstitched, scalloped, and cut out edges, the prettiest designs you ever saw, regular price \$1.25 and \$1.50, on sale Monday—for one day—only, at a yard **88c**

MONDAY!
18c Bleached Indian Head Shrunken Muslin at 12c a Yard.

29 Pcs. of the popular white Indian Head Shrunken Muslin, the best make, round thread and soft finished, popular for children's dresses, nurses' uniforms, ladies' Shirt Waists and Suits, regular 18c, on special sale Monday, at a yard **12c**

MONDAY!
Remnants of 10c Apron Gingham at 6 3/4c a Yard.

Another 1000 remnants of Apron Gingham, equal to Amoskeag, in lengths up to 20 yards, all colors, value 10c, on special sale Monday, for one day, at a yard **6 3/4c**

ESTABLISHED 1864
F. A. Zerbe & Co.
ONE PRICE TO ALL NEVER UNDERSOLD

MONDAY!
\$2.50 Curtains at \$1.69 a Pair.

11 Styles of Curtains, ruffled Battenberg Curtains, ruffled Dimity Curtains, White Renaissance Curtains, Colored Madras Curtains, Colored Organdy Curtains and white or cream Nottingham Curtains, in three different designs, all \$2.50 Curtains on sale Monday, for one day only, at a pair **\$1.69**

MONDAY!
60c and 75c Wash Jap Silk and Drapery at 35c a Yard.

All colors and black, 27 inch wash Jap Silk, 37 inch Drapery Silk, value 60c and 75c, Special Monday only, yard **35c**

MONDAY!
\$1.50 Couch Covers at 79 Cents Each.

150 Persian striped Couch Covers, made of reversible cotton damask, fringed on all sides, shadings that will harmonize with any rug or wall paper in the room, size 2x12, value \$1.50, on special sale Monday, for one day only, at each **79c**

MONDAY!
\$2.50 Children's Zibeline Coats, 98c

About 30 of these serviceable children's coats of Zibeline (a medium weight material), just the thing for early spring, in white and colors, sizes 1 to 8 years. Regular \$2.50 coats. Monday as long as they last **98c**

MONDAY!
15c, 20c and 25c White Berkley Cambrics at 11c a Yard.

Another 2000 remnants of the finest white Berkley cambrics, the best brands on the market, namessook finished, full yard wide, in lengths up to 5 yards, regular 15c, 20c and 25c, on special sale Monday, for one day only, at a yard **11c**

MONDAY!
IN THE SHOE DEPARTMENT

Boys' Good grade Rubbers, size 10 to 12 at per pair **44c**
Ladies' good grade Rubbers, size 2 1/2 to 8, at per pair **60c**

MONDAY!
\$1.50 Linen Damask Breakfast Cloths at 96c Each.

150 German Linen Damask Breakfast Cloths, 8-4 size, bordered all around, hemmed and ready for use, a soft finished linen, in the prettiest patterns, regular price \$1.50, on special sale Monday—for one day only, at each **96c**

MONDAY!
20c White Belfast Linen at 11 1/2c a Yard.

500 yards white Belfast Linen, which is cotton, but a copy of fine linen Sulting and a close imitation, very popular for ladies' Waists, suits and children's dresses, value 20c, on special sale Monday, for one day only, at a yard **11 1/2c**

MONDAY!
35c Boys' Blouses and Shirt Waists, 19c

These are made of chambray and percales in assorted patterns and plain colors.

Early Spring Model Suits For Women!
Good Examples of How We Combine Style and Economy.

Newcomers—and you can expect almost daily additions to these

SUIT ROOM DISPLAYS.

Manufacturers are feeling their way, proffering scores of novelties. The full tide of spring business depends upon the reception accorded these novelties.

Options are wanted, and lowered prices are held out as an inducement to early buyers of Spring Suits. See these:

MISSSES AND LITTLE WOMEN'S SUITS.

Under this head we call special attention to a handsome, strictly tailor-made suit, of extremely good quality Panama cloth, the jacket is semi-fitting, long sleeves and lined with mohair, skirt is full pleated with wide fold, Copenhagen, solid brown and navy are the prevailing shades. Worth \$22.50. Priced here at **\$16.00**

LADIES' TAILOR-MADE SUITS.

Dozens of styles in strictly tailor-made suits. Among them we select one of chiffon Panama cloth for your approval. The coat is the new dip front style, semi-fitting, long sleeves, cuffs and collar trimmed with Pansotene braid and silk cord. Skirt is full pleated model with wide fold, Copenhagen, solid brown and navy are the prevailing shades. Worth \$22.50. Priced here at **\$22.50**

THE NEW BUTTERFLY SUITS.

For the ultra-fashionable lady we have numerous butterfly models in the spring. Also plain colors, in serges, beaumonts, Panamas, etc. Some coats button, others have vest effect and look like, three-quarter length sleeves, skirts are made in the gored circular style, come faster in front, wide fold at bottom, showing an overskirt resemblance. One of French serge is worthy of your attention. Worth \$22.50. Priced here at **\$25.00**

PRINCE CHAPS, JAPANESE AND GRECIAN EFFECT SUITS.

Exceptional values in these new 1908 models. Prince Chaps in the dip front style and pleated skirt with fold; Japanese and Grecian effects, with gored circular skirts, and many mannish tailor-made included. Prices **\$65.00**

Spring's Newest Footwear Low-Priced!

We mark the approach of the new season by striking a sort of keynote in value, giving to which the offers of the entire spring will be attained.

Judge what we shall do through the season by what we shall do this week in giving style and durability for moderate figures

INFANTS' AND CHILDREN'S BLACK KID SHOES, with pat. tip and spring heels, sizes 2 to 8, value up to \$1.00, at 60c

CHILDREN'S BLACK KID SHOES, with pat. tip, spring heels and good wearing soles, sizes 8 to 11, at per pair 90c

BOYS' HIGH TOP LACE BOOTS, any pair in the house, value up to \$3.50, at per pair \$2.39

MISSSES' BLACK KID LACE SHOES with pat. tip and oak leather soles, sizes 11 to 12, at \$1.29

LADIES' BLACK OR BROWN KID OXFORDS with Cuban heels and turn soles, this season's style, sizes 12 to 2, value \$2.50, on sale, at \$1.95

ANY LADIES' OXFORD OR HIGH SHOE in the entire stock, (tans, blacks, heavy or light soles, patents or kid and all the newest 1908 styles, value up to \$3.00, for this week, at \$3.45

ANOTHER GREAT EMBROIDERY SALE

With ample quantities of every pattern and dozens of patterns at every price. No disappointments here.

29c a Yard.

For beautiful 17-inch wide Corset Cover Embroideries in greatest varieties of popular patterns in 17-inch Corset Cover Embroideries, values; on sale here this week **29c**

39c a Yard.

At this popular price we are offering this week the best assortment of popular patterns in 17-inch Corset Cover Embroideries and Flouncings—qualities you cannot duplicate for less than 50c a yard; on sale at a yard **39c**

All Over Embroideries \$1.25 Grades for 73c

Pretty all over embroideries in a variety of patterns for entire waist or troupings, extra good 20-inch wide; \$1.25 values on sale here at **73c**

LOVELY WASH DRESS STUFFS.

You'll hardly recognize our wash goods section tomorrow. The many shipments received within the past few days practically fill every inch of selling space. The styles are as fresh and winsome as will be the spring fashions soon to come. Superior values from the outset. Read on.

20 pieces Imported Plaid Effect Dress and Waist Linens—the novelty of the season, in all the wanted shades; **33 1/2c**

A charming line of Printed Silk Tissues, beautiful silky lustrous finish, half silk and Egyptian cotton, magnificent display of floral and rose patterns; almost indispensable for party dresses, chic summer dresses, waists, etc.; value **30c**

Another 25 pieces of the \$1.00 Spider Wash Silks, the most beautiful printed silk and linen wash fabrics—the newest and neatest designs. The daintiest, prettiest colorings. **48c**

Some of the New White Goods

The new white goods are a revelation of goodness and attractiveness. It has been a pleasure to us to gather these. They're coming in every day and soon the gathering will be complete except for the earliest handsome pieces that were too attractive to stay. Have them shown to you when in the store.

Specials for this week:

12c white dotted Dress Swisses, this week per yard **12c**

20c India Linens, 20c Persian Lawns and 20c English Nainsooks, this week, a yard **14c**

20c white fingerie Batiste, this week a yard **21c**

50 Pcs. Finest white fingerie long cloth, regular 25c a yard, this week a yard **24c**

The 15c White mercerized Chiffon Mulls and mercerized Batiste, 18 inches wide, the most popular white wash fabrics, this week a yard **49c**

New Spring Silk and Dress Goods

This week we'll make the best showing of the year in the latest productions of the foremost foreign and domestic Silk and Dress Goods Looms. We are not at all backward about saying that it is the most comprehensive assortment of desirable early Spring fabrics to be found in the city. Ever having the Greatest Collection of the best is a habit our Silk and Dress Goods Department could not rid itself of if it wanted to.

NEW SILK CRASH.

24 and 25-inch pure all-silk Bungalow and Silk Crash, the newest and most serviceable Silk for Waists or Suits, comes in black, cream, natural and all the new colors for Spring. Special, a yard **95c and \$1.25**

\$1.85 FANCY SILKS FOR 98c A YARD.

25 styles to select from, in assorted Stylish Plaids, Checks, Stripes and Persian Novelties, suitable for Waists or Suits. Values up to \$1.85 for a yard **98c**

\$1.45 GRADE BLACK PEAU DE SOIE FOR 95c A YARD.

22-inch, pure all silk, fine, soft finish Black PEAU DE SOIE, nothing will wear better for Waists, Skirts, or full Dress Patterns; regular \$1.45 grade. Special, a yard **95c**

NEW SPRING SUITINGS.

38-inch assorted Wool Suitings, in checks, stripes, plaids and novelties, including black and white checks, worth up to 50c. Special at a yard **49c**

NOVELTY SUITINGS.

38 to 46-inch all-wool Spring Suitings in Herringbone, Serges, Vigorans, Novelties, checks, stripes, fancy plaids, etc., values up to 50c. Special at a yard **60c**

ENGLISH SERGES.

44-inch all-wool heavy English Storm Serges, in black and all colors, regular \$1.10 value. Special, a yard **89c**

SATIN PRUNELLA.

28 to 40-inch all-wool Satin Prunella Cloth in black and all colors, including the new spring shades, regular \$1.25 a yard. Special, a yard **95c**

NEW PONGEE SILKS.

These are all exceptional values, placed on sale this week: 85c quality, special, a yard **63c** 90c quality, special, a yard **68c** \$1.35 quality, special yard, \$1.10

Stirring Values in Our Boys' Clothing and Gents Furnishing Sect'n

35c COTTON OR CASHMERE HALF HOSE 17c. This includes medium and light weight in either plain colors or fancy patterns. Special prices for this week only at **17c**

75c AND \$1.00 FOUR-IN-HAND NECKWEAR 50c. In addition to a great assortment of the very latest New York novelty patterns we include several dozen of the New French Knit Scarfs, made of silk, these are the very latest sensation. They all go, at this week, at **50c**

\$1.25 and \$1.50 GENT'S DRESS SHIRTS at 25c. Some of the nattiest patterns to be shown this season are included, the values are exceptionally great; your choice from a grand assortment, this week only, at **95c**

\$3.00 BOYS' SUITS \$1.65. Suits made of navy blue, black and fancy nainsook fabrics of splendid quality, this week, at **\$1.65**

\$5.00 BOYS' OVERCOATS ONLY \$2.50. All overcoats reduced from 33 1/3 to 50 per cent.

\$7.50 to \$9.00 BOYS' KNEE PANTS SUITS \$4.95. Boys' Knickerbocker suits, made of fine imported navy blue serge and fancy wool chevrons, in the popular check and plaid patterns. Also boys' straight knee pants suits of the same good quality. All go this week, at only **\$4.95**